

US Patent Application 09/990,422

art Skpeckova, how the following limitations are found in the prior art Speckova, per section (D)(1)(a) of applicant's response dated 10/30/2009:

- (i) Precisely point out what are the m different physical dimensional parameters interpreted in Spackova and where these interpreted parameters are exactly located in the disclosure of Spackova?
- (ii) Indicate where in the disclosure of Spackova, describing how these physical dimensional parameters are reasonably required in the normal operation process of Spackova (MPEP 2112.02 requirement)?
- (iii) Indicate where in the disclosure of Spackova, describing how these physical dimensional parameters in length units are measured in the normal operation of Spackova;
- (iv) Point out where in the disclosure of Spackova, describing the m measured values claimed can be obtained from the normal operation of the device of Speckova.

This request is made according to the requirement of 37 CFR 1.104(b) and MPEP 707.07:

*Completeness and clarity of examiner's action.
The examiner's action will be complete as to ALL matters.*

This request is also made according to the need of Graham's inquiry [section (C) of applicant's response dated 10/30/2009], as directed by the ruling of the Supreme Court, now a standard procedure to evaluate a rejection under 35 U.S.C. 1.103(a). The examiner is respectfully request to note that per the disclosure submitted under section (D)(1) of applicant's response, the applicant can accept different terminology or alternate description as long as the office action clearly indicates how each terminology or alternate description of the prior art is interpreted to represent a limitation claimed, and where this interpretation can be exactly located in the disclosure of the prior art. Since the subject claims are directed to a process, the examiner is particularly directed to note that any such interpretation must come from the "normal operation" of Speckova [please refer to section (A)(2) of applicant's response dated 10/30/2009].

US Patent Application 09/930,422

(B) To provide supporting prior art or affidavit regarding rejection of claims 6, 7, 9-18 and 49:

The applicant's respectfully submitted that he is unaware of any well-known application example of the use of n1+n2 codes claimed as alleged by the office action for rejecting claims 6, 7, 9-18 and 49. The applicant particularly wishes to point out that the technology of n1+n2 codes towards body size measurements is not an ordinary technology to be well known to a person having ordinary skill in the art of garment industry. Listed below is a quotation of a precedent court case *In re Sun*, 31 USPQ 2d 1451, 1455 (Fed. Cir. 1993),

Finally, appellants seemingly argue that the examiner's lack of citation to support the asserted level of skill in the art makes the rejections improper per se. This is so, appellants suggest, because without such citation, there is no record by which they can argue that the examiner erred.

The following is a quotation from 37 C.F.R. 1.107(b):

When a rejection in an application is based on facts within the personal knowledge of an employee of the Office, the data shall be as specific as possible, and the reference must be supported, when called for by the applicant, by the affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons.

The examiner is respectfully directed to section (D), page 17 of applicant's response dated 05/05/2009, which requested the office action to provide cited reference to support the ground of rejection of the subject claims, or to provide an affidavit under 37 C.F.R. 1.107(b) in lieu of the cited reference, providing citation regarding level of skill required by a person having ordinary knowledge in the art of garment industry to acquire the knowledge of the claimed limitation. If the examiner does not interpret the art of garment industry to be an appropriate art of reference, the examiner is respectfully requested to identify the art in the affidavit for which an ordinary person having ordinary skill should belong to. Subsequent office actions had NEVER provided response to this

US Patent Application 09/930,422

request. It is respectfully submitted that this request is a matter of law and must be fulfilled unless the examiner is able to provide law supported evidence explaining why the teaching of precedent court ruling *In re Sun*, 31 USPQ 2d 1451, 1455 (Fed. Cir. 1993), or the request made under 37 C.F.R. 1.107(b) is improper.

The examiner is respectfully request to reconsider the above two requests made under 37 C.F.R. 1.111. The examiner is also respectfully requested to note that this submission is to supplement the response of the applicant dated under 10/30/2009. No waiting for the result from the petition to the Director will be required because the petition will not be submitted unless the applicant receives another office action, indicating that both requests (A) and (B) of reconsideration specifically submitted herein are ignored or declined.

Respectfully submitted,



Peter Ar-Fu Lam
Applicant
20104 Wayne Ave.,
Torrance, CA 90503.
(310) 320-9811